



Appendix P

APHIS Policy Pertaining to Violations of Garbage Regulations

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Introduction

This appendix provides information about the purpose of the APHIS Policy Pertaining to Violations of Garbage Regulations. The purpose is to communicate uniform policy governing the action to be taken in response to violations occurring at firms approved for the handling of regulated garbage.

Policy

If a serious violation of the garbage regulations or a compliance agreement occurs, only the Headquarters Veterinary Medical Officer (HQ, PPQ, VMO) in PPQ,VRS decides whether to revoke a firm's approval to handle regulated garbage. A serious violation is one that involves an imminent risk or a second, documented violation by a firm within a short time. The port reports the serious violation to the HQ, PPQ, VMO who then confers with the Office of the General Counsel (OGC), Investigative and Enforcement Services (IES). The HQ, PPQ, VMO then decides whether to revoke the firm's approval to handle regulated garbage. If the violation is considered to present an imminent risk to the public health, interest, or safety, the firm's approval is immediately revoked. Otherwise, the firm is notified of the intent to revoke their approval.

Likewise, only the PPQ, VRS office may approve reinstatement of a firm's compliance agreement to handle regulated garbage. Reinstatement occurs only when the firm found in violation meets all the terms of settlement detailed in the consent agreement or as a result of a hearing.




An officer is **never** to revoke or reinstate a firm's compliance agreement independently. The officer must follow protocol. That protocol is described in the next sections.

Protocol for Initiating Action

Use the following protocol to initiate action:

1. The officer detects a violation and applies appropriate safeguards. If the violation involved the movement of the regulated garbage at a location that has **not** been approved by PPQ, then the officer is to stop that movement—although the officer must **not** physically try to prevent the off loading. The officer should get the help of the responsible airline official or CBP. If off loading is **not** stopped, then the officer must immediately call PPQ, VRS in Riverdale for assistance.
2. Following the application of safeguards, the officer investigates and reports the violation. Reporting consists of completing and mailing PPQ Form 518, Report of Violation. (See [PPQ FORM 518, Report of Violation](#) on [page A-1-68](#) for directions for completing this form.)
3. After the officer completes PPQ Form 518, Report of Violation, the Officer in Charge of the port writes a warning letter. (See [Sample Letters to Notify Firms of Violations](#) on [page D-1-1](#) for directions.)
4. The Port Director and PPQ, VRS determine the seriousness of the violation as listed in [Table P-1-1](#).

TABLE P-1-1 Determine if Violation Is Considered Serious

If the violation:	And it is the firm's:	Then the Port Director:
Presents an imminent risk (for example, untreated garbage is dumped in a landfill or a caterer removes meat from the aircraft to take home)		Classifies the violation as serious
Does not present an imminent risk (for example, a container holding foreign garbage leaks or garbage is held too long before disposal)	Second violation	
	First violation	Classifies the violation as noncritical

5. If the violation is noncritical, the officer concludes his or her activities with the forwarding of the Report of Violation.



If the violation is serious, the Port Director must report the violation to the office of PPQ, VRS within 1 work day of when the violation occurred.

Protocol for Notifying Violator of Intent to Revoke a Firm's Approval to Handle Regulated Garbage

Use the following protocol in notifying a violator of intent to revoke the firm's approval to handle regulated garbage¹:

1. If the decision is made to revoke approval to handle regulated garbage, PPQ, VRS telephones the appropriate Regional Office and the local PPQ port office. The firm's approval may be suspended until it corrects the problem, or approval may be suspended for an indefinite period—depending on the seriousness of the violation and the violator's history of performance.
2. OGC and IES jointly write two letters. The first is a letter of complaint for the DA's signature. The second is a rule of procedures letter for the Administrator's signature. Both letters are sent to the responsible company's official or that person's representative. Copies of these letters are sent to the local Port Director, Regional Director (RD), and IES.
3. The violator may request a hearing.
4. If the firm agrees to settle the case before the hearing, OGC prepares a consent agreement. This agreement is drafted as follows:
 - A. PPQ's HQ, PPQ, VMO consults with the appropriate RD, the Port Director of the local PPQ port office, IES, and the DA's office. This group prepares a list of terms that must be met to ensure proper handling of regulated garbage. PPQ's HQ, PPQ, VMO and IES send the list to OGC for their use in writing the consent agreement.
 - B. OGC, knowing the criteria the firm must meet, negotiates the terms of settlement with the responsible company's official or that person's representative. However, any changes to the terms of the negotiated consent agreement must be approved

¹ Situations that **do not** require immediate removal of the firm's compliance agreement—in other words, situations that **do not** present an imminent risk to the public's health, interest, or safety.

by the DA's office. The consent agreement also sets the duration of the revocation (the estimated time it will take to meet all the terms of the settlement).

5. OGC sends the consent agreement to the responsible company's official or that person's representative for signature. OGC sends copies of the agreement to the Port Director of the local PPQ port office; RD; IES; and PPQ, VRS.
6. The responsible company's official or that person's representative signs the consent agreement and sends it back to OGC.
7. With signed agreement in hand, a HQ, PPQ, VMO in PPQ, VRS telephones the appropriate RD and the Port Director of the local PPQ port office with the terms of the settlement—including the date that approval is withdrawn. PPQ, VRS sends copies of the final decision and order to the offices phoned.
8. The appropriate RD and Port Director make sure that the firm complies with the final decision and order, keeping PPQ, VRS informed.
9. If a settlement is **not** reached by a consent agreement, a hearing is conducted following the procedures provided with the letter of complaint.

Protocol for Immediately Revoking a Firm's Approval to Handle Regulated Garbage

Use the following protocol in immediately revoking a firm's approval to handle regulated garbage²:

1. PPQ's HQ, PPQ, VMO telephones the appropriate Regional Office and the local PPQ port office of the decision to immediately revoke the firm's approval. The DA may revoke approval until the firm corrects the problem or for an indefinite period—depending on the seriousness of the violation and the violator's history of performance.
2. OGC then drafts a telegram. It tells the firm that their approval to handle regulated garbage is suspended upon receipt of the document. The DA's office prepares the telegram, sending it to the local PPQ port office. The Port Director or the Port Director's representative then delivers the telegram to the responsible company's official or that person's representative. The DA's office sends copies of the telegram to the RD; PPQ, VRS; and IES.

2 Situations that present an imminent risk to the public's health, interest, or safety.

3. Upon delivering the telegram, the PPQ Officer has the receiving official sign a copy of the telegram. The signed copy must show the date and time of delivery. The officer tells the firm that the revocation began with the delivery of the telegram.
4. Following delivery of the telegram, the Port Director of the local PPQ port office alerts all affected airlines of the revocation of the firm's approval to handle regulated garbage. The Port Director also immediately calls the RD and PPQ, VRS to let them know that the telegram was delivered.
5. Where Notification of Intent is provided, follow steps 2-9 under ***Protocol for Reinstating a Firm's Approval to Handle Regulated Garbage***, below.

Protocol for Reinstating a Firm's Approval to Handle Regulated Garbage

Use the following protocol when immediately revoking a firm's approval to handle regulated garbage:

1. The appropriate RD keeps PPQ's HQ, PPQ, VMO updated by phone of the progress made by the violator in satisfying the terms for settlement.
2. In consultation with the appropriate RD; PPQ's HQ, PPQ, VMO; IES; and OGC, the DA decides when the firm has satisfied all the terms of settlement.
3. Once all the terms of settlement have been satisfied, the DA sets a date to reinstate the firm's approval to handle regulated garbage.
4. The Port Director finally reapproves or reinstates the compliance agreement as appropriate.

Appendix P

Protocol for Reinstating a Firm's Approval to Handle Regulated Garbage
